

**Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
January 8, 2020 - 5:00 p.m.**

In Attendance were:

Brad Wells, Planning Commission, Chairman
Bobby Drake, Planning Commission
Ken Richens, Planning Commission
Ryan Clark, Planning Commission
Gary Sorensen, Planning Commission
Connie Sweat, Planning Commission
Jenny Giles, Planning Commission
Mike Hyde, Community Development Administrator
CoraLee Sanchez, Planning Secretary

Visitors:

Darrin Brown, TriCounty Health Department
Cathy Patry

VanAusdal CUP

The Commissioners welcomed Jenny Giles to the Planning Commission. She will be the Tabiona-Hanna area representative, serving a four year term, replacing Jenny Giles.

Chairman Wells opened the nominations for Chairman for 2020. Commissioner Drake nominated Chairman Wells to serve as chairman for another year. Commissioner Clark seconded the motion and it passed unanimously. Nominations were opened for Vice-Chair. Commissioner Richens nominated Commissioner Drake for Vice-Chair. Commissioner Sorensen seconded the motion and it passed unanimously.

Chairman Wells read the rules of order. He asked if any of the Planning Commission Members had any ex-parte contacts or conflicts of interest associated with the agenda items. There were none, so the meeting proceeded.

PUBLIC HEARINGS:

A. Request by Jefferie VanAusdal for a Conditional Use Permit to maintain a junk yard for personal use at 5028 W 940 South in the Roosevelt area.

Mr. Hyde referred the commission to their packets, some site photos of the applicant's property and a timeline from the fall of 2001 to the present time of various complaints and enforcement actions. Mr. Hyde stated the applicant is proposing to maintain a junk yard at the subject location, which is zoned Agricultural (A-5). Junk yards are permitted in the A-5 zone as a conditional use.

A junk yard is defined in the zoning ordinance as: *The use of any lot, parcel or land for the storage, keeping or abandonment of junk, including scrap metals or other scrap material, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery. All junkyards shall be screened by natural objects, plantings, fences, or other appropriate means so the junkyard is not visible from the main traveled way.*

Junk is defined in the Nuisance Ordinance as: *Inoperative motor vehicles, motor vehicle parts, abandoned automobiles and vehicles, machinery, machinery parts, appliances or appliance parts, iron or other metal, glass, paper, lumber, wood, or other waste or discarded material.*

Section 3-4-3 of the County Code defines Solid Waste as: *All putrescible and nonputrescible solid and semisolid wastes, such as refuse, garbage, rubbish, paper, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes and shall include other discarded material classified as solid waste by state and federal law or regulation.*

The planning commission may grant a conditional use permit in compliance with this title if, from the application and the facts presented at the public hearing, it finds:

- 1. The proposed use at the proposed location will not be unduly detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety or general welfare.**

The proposed use has the potential to be detrimental to public health, safety and general welfare and detrimental to owners of property and improvements in the vicinity if conditions are not imposed to protect land, air, water and visual quality.

The Utah Department of Environmental Quality has a Solid and Hazardous Waste Division that regulates junk yards and scrap metal operations. The Division needs to be consulted by the applicant to determine if that agency will require the submittal of a "Plan of Operation" for the facility. Approval of the DEQ Solid and Hazardous Waste Division or an exemption from that agency must be submitted to the county in a timely manner.

The Utah Department of Environmental Quality has a Water Quality Division that regulates discharges of storm water from junk yards and scrap metal operations. The Division needs to be consulted by the applicant to determine if that agency will require the submittal of a "Storm Water Pollution Prevention Plan (SWPPP)" for the facility. Approval of the DEQ Water Quality Division or an exemption from that agency must be submitted to the county in a timely manner.

The Utah Department of Environmental Quality has an Air Quality Division that regulates discharges of pollutants into the air, such as may occur with cutting of metal with a torch. The applicant states there will be no dismantling on the property and no cutting torches will be used. Thus, it is not necessary that this agency be contacted by the applicant.

The zoning ordinance requires that *“all junkyards shall be screened by natural objects, plantings, fences, or other appropriate means so the junkyard is not visible from the main traveled way.”* In this case, the main traveled way is 940 South. Photos taken from 940 South on November 13, 2019 show that the consolidated storage area is screened from view from the main traveled way by the house, fencing and berming. However, the tops of three vehicles are visible in the photos. Additional work will be needed to provide for complete screening.

2. The proposed use will be located and conducted in compliance with the goals and policies of the county general plan and the purposes of this title.

The Duchesne County General Plan states that future growth and development decisions should be made with sensitivity to rural residential and agricultural interests. In light of these plan policies, the Conditional Use request should be approved, if conditions of approval are imposed to protect rural residential and agricultural interests in the area.

3. That the property on which the use, building or other structure is proposed is of adequate size and dimensions to permit the conduct of the use in such a manner that will not be materially detrimental to adjoining and surrounding properties.

Mr. Hyde stated the subject property is five (5) acres in size, which is of sufficient size to locate the proposed junk yard. However, locating such a facility close to current and potential residential uses raises the possibility of noise and visual degradation concerns. Thus, conditions should be imposed to require noise control and hiding the stored materials from view from the main traveled way.

The additional conditional use permit criteria include:

A. Landscaping, Design: That the site will be suitably landscaped and maintained and that the design, setbacks, fences, walls and buffers of all buildings and other structures are adequate to protect property and preserve and/or enhance the appearance and character of the area.

Mr. Hyde indicated to preserve the appearance of the area, the permit, if granted, should include a requirement to screen the stored vehicles and other items from view from the main traveled way. Other vehicles existing on the property (or that may have encroached onto abutting property) that the applicant does not intend to restore must be removed by a date certain.

B. Parking: Provisions of parking facilities, including vehicular ingress and egress, loading and unloading areas and the surfacing of parking areas and driveways to specified standards.

Mr. Hyde stated the public will not be doing business or bringing materials to the site. The use is associated with a hobby rather than a commercial enterprise. Thus, there is no need for an improved parking lot or a business license.

C. Streets, Water, Sewer, Fire Protection: The provision of required street and highway dedication and improvements, and adequate water supply, sewage

disposal and fire protection.

Mr. Hyde stated the subject property has legal access to County Roads known as 5000 West and 940 South [County Road #56]. No need for additional right of way has been identified at this location. Water supply and sewage disposal is required for occupancy of the dwelling but is not required for the proposed junk yard as there is no office or public use of the site. The home and junk yard area are located close to the County Road, which allows good access for fighting a fire.

D. Signs: Regulation of signs.

Since the public will not be doing business at this location, no signage is necessary.

E. Nuisances: The mitigation of nuisance factors, such as noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electromagnetic disturbances and radiation.

Due to the proximity of the junk yard to dwelling units, reasonable conditions should be imposed to prevent noise impacts.

The county nuisance ordinance sets forth the following noise standards:

Noise Disturbances:

1. *The following acts are declared to be violations of this subsection, but such enumerations shall not be deemed to be exclusive:*
 - a. *Parking a motor vehicle with the motor or auxiliary equipment in operation on a public right of way or on private property between the hours of nine thirty o'clock (9:30) P.M. and seven o'clock (7:00) A.M., if the noise so produced is plainly audible within a dwelling unit. This subsection shall not apply to: county or publicly owned vehicles or equipment; commercial construction equipment; the normal operation of commercial or private vehicles designed and used for transportation of passengers; or to other commercial or private vehicles being loaded or unloaded, including sanitation and waste disposal vehicles.*
 - d. *The use of any mechanical device, operated by compressed air, steam, gasoline or otherwise, unless the noise created is in connection with work being done by authorized agencies or an agricultural activity and/or is effectively muffled between the hours of nine thirty o'clock (9:30) P.M. and seven o'clock (7:00) A.M.*

Based on the standards above, the applicant will need to ensure that no nuisance noise is generated earlier than 7:00 AM or later than 9:30 PM. Since there will be no dismantling of vehicles and future restoration work would occur within an enclosed shop building located west of the junk vehicle storage area, noise impacts are not anticipated. Dust is not anticipated to be an issue since there will be a low volume of traffic entering and leaving the property.

F. Operating Hours: The regulation of operating hours for activities affecting normal schedules and functions.

Activity at the site will need to be kept within the hours allowed by the nuisance ordinance (7 AM to 9:30 PM).

Mr. Hyde's recommendation is that the Planning Commission approve the Conditional Use Permit requested by Jefferie VanAusdal, subject to the following conditions:

1. By June 15, 2020, the applicant shall remove all junk vehicles from the property (and those that may have encroached onto abutting property) that are not within the fenced and bermed area.
2. By March 16, 2020, the applicant shall:
 - a. Increase the height of the berm or take other measures to totally obscure the view of vehicles from the street.
 - b. Obtain an approval of the facility or an exemption from the Utah DEQ Solid Waste Division.
 - c. Obtain an approval of the facility or an exemption from the Utah DEQ Water Quality Division.
3. The applicant shall restrict hours of activity at the junk yard to those permitted by the Noise Disturbance section of the Duchesne County Nuisance Ordinance (7 AM to 9:30 PM).

Mr. Hyde asked if there were any questions or comments regarding the staff report.

Commissioner Drake had some concerns about the height of the berm. Mr. Hyde stated either a fence or the berm must be high enough to obscure anything from being seen from the main road. Portions of a couple of vehicles are visible at this point.

With no other comments or questions Chairman Wells invited the applicant to speak.

Jeff VanAusdal, the property owner and applicant thanked Mr. Hyde for his time and efforts during this long process. Mr. VanAusdal explained he lives and works out of town but his intentions are to move back and retire here. While the house was rented the renters and various relatives would use my property as a storage site. Some of the stuff has been removed and he is working on getting more of the items removed. But there are still some cars, parts and other items he does want to keep and is willing to get the permit and clean up the area so it is not an eyesore for the neighbors.

Mr. VanAusdal has checked with Allen Moore with the DEQ and Brian Hamos with Utah water quality and neither one has any requirements. He is not concerned about the noise. Mr. Hyde suggested Mr. VanAusdal get an e-mail from both state agencies stating he does not need any permits.

Chairman Wells asked if there were any other questions.

Commissioner Drake asked if Mr. VanAusdal if he was ok with the berm or fencing requirements. Mr. VanAusdal stated he was in agreement.

With no other comments and no one in the audience to speak in favor of the applicant's request. Anyone in opposition was invited to speak.

Cathy Patry, an adjoining property owner, stated she had some concerns at first. After reading the staff report and listening to Mr. VanAusdal and his plans for the future, knowing the junk needs to be contained and fenced or bermed she is ok with the conditions and approving the permit.

Mr. VanAusdal stated he would like to lighten the load by getting rid of a few more vehicles and not collecting any new ones.

Darrin Brown, TriCounty Health Department, stated that commercial junk yards require plans for a storm water permit and a solid hazardous waste plan. Mr. VanAusdal cannot occupy the residence on the property since there is a failed wastewater system and the septic tank is uncovered.

Mr. Brown stated the DEQ has plans to be more active in rural areas but for now TriCounty health will review the smaller problems. Mr. Hyde noted that the conditions for approval will require the applicant to coordinate with the proper agencies.

Mr. VanAusdal stated the previous renters had dug up the septic system. It is buried now and in the spring he plans to install a new one.

With no other questions or comments the public hearing was closed.

Commissioner Drake motioned to approve the Conditional Use Permit requested by Jefferie VanAusdal, subject to the conditions stated in the staff report. Commissioner Clark seconded the motion and it passed unanimously.

NEW BUSINESS:

None

Minutes: Approval of December 4, 2019 minutes:

Commissioner Sweat moved to approve the minutes of December 4, 2019.

Commissioner Richens seconded the motion and it passed unanimously.

Commission Comments and Staff Information Items:

Chairman Wells asked Mr. Hyde if the County Commission accepted the plat for the Cove Acres road project and if anyone had filed an appeal. Mr. Hyde replied they did approve the plat and the 30 day appeal deadline was January 9, 2020. Mr. Hyde also reminded the commission about the Tri-County culinary water meeting on January 22, 2020 at the event center including dinner and some discussion about some of the county water problems and future plans of the water districts.

Adjournment:

Meeting adjourned at 5:45p.m.